

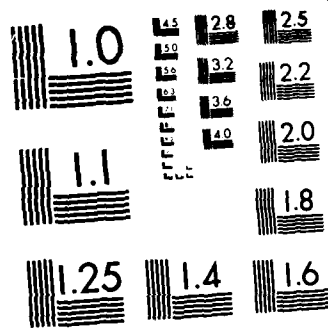
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USAWC MILITARY STUDIES PROGRAM PAPER

CONGRESSIONAL INFLUENCE ON MILITARY ACQUISITION
AN INDIVIDUAL STUDY PROJECT

by

Lieutenant Colonel Richard J. Fousek

Colonel James R. Jagielski
Project Advisor

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U.S. Army War College
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29 March 1988

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CONGRESSIONAL INFLUENCE ON MILITARY ACQUISITION

CHAPTER I

INTRODUCTION

The Constitution charges the Congress with the responsibility of "raising and supporting armies." Entrusted with the "power of the purse," Congress was given both the authority and capability to decide how the Department of Defense (DOD) acquires material and services for our military forces.

During recent years Congress has substantially increased its involvement in defense oversight. This interest is driven by the sobering reality of our large national debt, the clamor to spend more on social support programs, and fear of a stock market crisis similar to the one of October 19, 1987.

The purposes of this study are to determine:

- a. The influence of such institutional factors as committee politics, the subcommittee review process, and professional staffers on defense acquisition. The practical effects of having less dominating chairmen and more liberal members on the defense committees will also be analyzed.
- b. The extent and nature of political pork barreling to include its positive and negative effects. Historical analysis will be used to determine if major weapons systems are fielded "because of" or "in spite of" congressional intervention.
- c. The methods and merits of congressional efforts to improve the procedural aspects of defense procurement.
- d. Congress' ability to intervene in order to overcome DOD shortsightedness and interservice bickering.
- e. The factors that hinder the development of an open and trusting relationship between Congress and DOD.

Analysis of the above area will provide conclusions and

recommendations that can be used to improve the integrity, responsiveness, and efficiency of the defense acquisition system.

CHAPTER II

THE CHANGING INSTITUTION

Congressional structure, forces, and factions are changing to accommodate the membership's appetite for more acquisition oversight.

The House and Senate Armed Services Committees (HASC/SASC) are still the kingpins of defense oversight; but committee composition, politics, and perspectives have significantly changed. Historically, the HASC has been controlled by hard liners who usually supported DOD procurement initiatives. The committees retain their conservative orientation, but the absence of dominating chairmen and the increased influence of liberal members have changed the political balance. Les Aspin's leadership, which is drastically different from that of former chairman Mendall Rivers, has been widely criticized because it is "insufficiently responsive to member's wants and needs."¹ The influence of liberal defense committee members has increased from the 1970's when the five HASC liberals (Aspin, Dellums, Schroeder, Carr, and Downey) won so few committee battles that they were known as the "Feeble Five."² In the 1980's, three of the five (Dellums, Schroeder, and Aspin) have gained stature and helped soften the committee's "hard line." The SASC has undergone some political realignment, but the influence of Senator Kennedy was offset when the "hawkish" Senator Goldwater assumed the chairmanship. Weaker chairman and increased member

liberalism will require more program manager involvement to achieve favorable voting margins for procurement issues that were once considered uncontentious.

Congress' increased interest in defense monitorship is nurtured by subcommittee proliferation and politics. Subcommittees now resolve about 99% of all congressional actions and often change procurement legislation to achieve political compromise.³ For example, in 1984 a HASC sponsored \$6.6 billion bill to procure nuclear material was waylaid by Judiciary, Energy, and Commerce Subcommittee antics.⁴ These subcommittees objected to HASC language about nuclear regulation, civilian litigation, and environmental issues. The final version of the bill was substantially changed, indicating that procurement scrutiny is exercised by numerous congressional committees.

Both procurers and congressmen are often frustrated by the redundant, time consuming subcommittee process. Senator Cohen (R-Me) noted "We're not experts that devote our sole time to overseeing how we spend money. We're on four committees and about nine different subcommittees which seem to meet at the same time."⁵ Nevertheless, the redundancy will continue to cause repetitious reviews that can alter both the intent and content of procurement decisions.

The increased size and quality of the professional staffer corps has given Congress more resources to analyze defense spending. For example, in 1949 each Armed Service Committee had ten staff members. By 1985, the HASC had 59 and the SASC 44.

This equates to a growth rate of 415% and the trend is continuing.⁶ DOD buyers must understand and work with staffers because they facilitate and influence key procurement decisions. Unlike most of their DOD counterparts, staffers due to their stability, can monitor acquisition programs throughout their life cycle. Equally advantageous is their ability to require committee hearings or increase the depth of ongoing sessions. Defense staffers are typically young and energetic analysts who work hard ensuring that congressmen know the complete answer to their penetrating questions. Unfortunately for DOD, energetic staffers require tremendous amounts of procurement data.

Industry lobbyists are also key operatives in the procurement oversight process. Their total number is unknown but influential advocates exist for every conceivable purpose. Senator Goldwater once said, "I have been badgered and cajoled by constituents, contractors, and program managers for a piece of the action."⁷ Consequently, DOD procedures should not be shy and take every opportunity to promote his or her program.

The successful DOD buyer must understand and react to the forces and factors that influence timely and cost efficient procurement. The astute manager must stay abreast of institutional changes and capitalize on the advantages that can be gained from working with staffers and lobbyists. Perhaps such large scale solutions as a fully implemented biennial budget or the creation of a single "Defense Committee" will someday provide relief, but for now DOD managers can fully

expect to interface Congress more often, in more forums, and in greater detail than ever before.

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4. Pat Towell, "Four House Panels Dickering Over Nuclear Weapons Bill," Congressional Quarterly, July 9, 1983, p. 1414.
5. Richard A. Stubbing, The Defense Game, p. 95.
6. Black, p. 44.
7. "Ailing Companies Eye Defense Dollars," Congressional Quarterly, May 15, 1982, p. 1156.

CHAPTER III

PORK BARREL POLITICS

When Congress oversees defense acquisition, its members are motivated by a variety of constituent, committee, and personal interests.

Taking care of one's own constituency is the most visible and controversial motivator. Pork barreling is a political fact of life that often disregards national level interests and can result in increased cost and other wasteful inefficiencies.

Congressmen are politicians who require public support to stay in office. Pork barreling can produce the local defense industry jobs that allow congressmen to gain recognition and reelection. It is not construed as wrongdoing, but a political means of satisfying both national and regional needs. It is both pervasive and widely practiced. Even legislators who habitually criticize defense spending will risk hypocrisy to obtain defense dollars for their constituency. For example, when the F-18 fighter future looked bleak, two very liberal senators, Kennedy and Cranston, rallied support because the F-18's engines and airframes were built in their respective home states.¹

Two current examples of congressional intervention involve the procurement of Army pistols and heavy trucks. The pistol situation developed when Smith & Wesson complained to GAO that Beretta, the current contractor, was not meeting

specifications. Despite Army denials, Representatives Boland and Conte, who represent the firm's 2,000 workers, have mandated recompetition of the remaining 200,000 pistols.² Heated debate also surrounds the Army's dilemma for adding a palletized lift capability to its heavy truck fleet. The Army and Representative Leath (D-Tx), the "godfather of the Army truck fleet," wanted Oshkosh, the current manufacturer, to modify new production vehicles.³ Strong exception, however, was taken by Senators Levin (D-Mi) and Quayle (R-In) who want their own state contractors to compete. This issue is so contentious that a special competition will be required to resolve the matter.⁴ Analysis of these two procurements indicates that more than cost and schedule have been affected. The recomputation of an existing contract will result in unnecessary administrative costs, more testing, and will send confusing signals to other NATO arms manufacturers. Some contractors may also seek political intervention to waylay previously awarded contracts. What may appear to some as blatant congressional meddling, is being accepted by thousands of Massachusetts, Indiana, and Michigan workers as genuine concern.

Of the many major development programs influenced by Congress, the C-5A aircraft is a classic example. It began in the Kennedy administration to improve our response to the brushfire wars of the 1960's. When the C-5A bidding began in 1965, Lockheed was ending its C-141 production and faced a bleak future. Unlike its competitors, Lockheed had little commercial business and needed the C-5A contract to survive. When the bids

for the 115 airplane purchase were tallied, "Boeing was high with a bid of \$2.3 billion, Douglas was next with \$2 billion, and Lockheed was the low bidder with \$1.9 billion."⁵ The Source Selection Board tentatively selected Boeing because the Air Force felt the wing design would not meet the short takeoff and landing requirements. When the Boeing choice was leaked, the Georgia pork barrel was activated. Lockheed and Georgia had a great ally in Senator Richard Russell who chaired the SASC and was recognized as "the most powerful member of the Senate."⁶ With a \$2 billion contract and 20,000 home state jobs at stake, Senator Russell went directly to President Johnson who listened carefully because "Russell's support was vital to the administrations's legislative program."⁷ Senator Russell's influence prevailed and Lockheed was awarded the contract. Howard Atherton, the former Atlanta mayor who personally solicited the senator's support, noted that "Russell didn't think the C-5A was really needed" but "without Russell we wouldn't have gotten the contract."⁸ Even President Johnson's speech at the first aircraft acceptance ceremony underscored the power of "pork", "There are a lot of Marietta, Georgia's scattered throughout our fifty states. All of them would like to have the pride that comes form this production, but all of them don't have the Georgia delegation."⁹ The delegation was obviously Senator Russell.

A variety of design, production, and cost control problems kept the C-5A in the public spotlight for the next eight years. In 1973, however, it had to be rescued by another noted pork

barrel politician, Mendall Lucious Rivers. Representative Rivers ruled the HASC with a legendary iron hand but he had a soft heart for South Carolina where several major Lockheed contractors were located. Rivers used his position and influence with other members to sustain the C-5A contract. Such Rivers' comments as "We have to get this thing whether or not there are overruns" and "overruns are no mortal sin"¹⁰ were instrumental in Lockheed's retention of the contract.

Analysis of the C-5A situation surfaces several key issues. First, the C-5A was needed and eventually filled a recognized airlift shortfall. The decision to procure the controversial aircraft was not politically driven. It was convincingly "sold" by the Air Force. Second, Congress definitely influenced contractor selection. Congress felt that Lockheed could not continue to exist on commercial business and its demise would wreck the fragile Atlanta area economy. Congress' economic and political reasoning disregarded Air Force concerns about the adequacy of Lockheed's wing design. Wing problems eventually did occur and substantially raised program costs. Third, the congressionally influenced award to Lockheed was a mistake, but that did not deter Rep. Rivers from saving the program from termination seven years later. Fourth, more restrictive DOD specifications would have made Lockheed's bid technically unresponsive. Similarly, better audit controls should have been implemented to offset anticipated production problems. Congress is cognizant of the potential negative impact of patronage politics. Few members, however, are eager

to correct the situation because of their dependence on "satisfied" home district voters. Most members think like Rep. Downey (D-NY): "I'm on the Armed Services Committee. It's my job, whether I think the A-6 is good or not to support it...You help the district and its all very wholesome."¹¹ His boasting reveals the pervasiveness of patronage voting and underscores the fact that it will probably never change.

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CHAPTER IV

SYSTEM CARETAKER

Congressional intervention can be a constructive process that improves defense acquisition. Congress performs the role by adjusting funding levels and changing acquisition procedures.

"Add backs" are used by Congress to exert leverage upon existing DOD programs. The magnitude of "add backs," which increase budget items requested by DOD, is immense. For example, in 1983 Congress added \$2.6 billion for unrequested programs. In 1984, the figure was \$4.8 billion, and it exceeded \$6 billion in 1985.¹ The majority of "add backs" are by-products of political compromise, but Congress also uses them to offset DOD shortsightedness and bickering.

Congress effectively used its "power of the purse" when it forced the development of cruise missiles in the 1970's. Cruise missiles promised to be cheap, dependable, and adaptable to both conventional and nuclear uses. To developers, these missiles offset Soviet weapon superiority, to foreign policy makers, they could potentially influence NATO and SALT II politics; but to the military they were unwanted because they competed with existing weapons. The situation quickly became contentious because "without exception, the military services did not want cruise missiles."² The Air Force was deeply committed to manned strategic bombing and the Army resisted the ground launched version of the missile because it was rebuilding its

conventional capability. One study noted that "a significant segment (of the Army also) wanted to give up the Pershing I and not develop the Pershing II, because such labor intensive systems magnify manpower problems."³ The Navy was uninterested because the carrier admirals rejected anything that competed with naval airpower. Congress reacted to service inaction by intervening on three different occasions. In 1972, it added unrequested funds for further research. This action gave new impetus to the development of the air launched version and caused the merger of the Navy and Air Force program offices.⁴ In 1976, Congress lashed out at Navy inertia in developing the anti-ship missile. It was even more impatient in 1979 and publicly criticized the lack of progress in adapting the nuclear variants. Analysis indicates that Congress used its fiscal power to overcome the parochial service resistance that would have either squelched cruise development or relegated these weapons to a secondary role. Congressional intervention has given the nation an invaluable weapon and a key bargaining chip for future arms reduction talks.

Many procedural changes have been legislated by Congress because of the repair parts pricing capers of the early 1980's. Stories of \$400 hammers and overpriced plastic stool leg caps were widely publicized by the news media. Numerous investigations indicated that contractor price gouging was responsible for the situation, but, as usual, the true facts received little publicity. In one instance, Gould Inc. sold the Navy a F-18 tool that included a small hammer that it bought for

\$7.00, but charged the Navy \$436 because of incorrect overhead application.⁵ Similarly, the stool cap fiasco was caused by incorrectly applied engineering costs. When the situation was finally resolved, Boeing provided the parts for 34 cents each.⁶ In both instances, DOD internal audit controls failed to identify and prevent contractor greed. Congress reacted appropriately to DOD's inability to ensure compliance by assailing contractor greed and changing DOD buying procedures.

Irate congressmen like Representative Bill Nichols (D-Al) warned contractors that they were seen "in the role of holding up people."⁷ Other legislators felt overpricing reflected inadequate procurement competition. DOD and Congress readily agreed that competition reduces acquisition costs. For example, the Navy's RIM 66 missile cost \$149,766 when purchased sole source from General Dynamics, but only \$61,039 when completed.⁸ Congressional remedies for improving competition varied in utility. One helpful bill limited the time contractors could exercise proprietary rights over design data.⁹ This initiative allowed early DOD dual sourcing. Fortunately for DOD, Senator Grassley's (R-Ia) bill to "raise the level of true competition every year by 5% until 70% of all contracts are competitive" was not implemented.¹⁰ If the 5% DOD goal was not met, annual DOD funds would be cut by the amount of the shortfall percentage. This seemingly well intentioned penalty system could have been potentially disastrous to DOD because of disagreement about actual level of procurement competition. Congress considered only 6% of DOD

buys are truly competitive but DOD said the figure was closer to 50% when negotiated procurements were included.¹¹ The difference in data was unresolvable and the bill eventually failed. If the bill had been implemented using the 6% baseline, DOD would have faced a procurement crisis for several years to come.

Congress also changed how defense contractors warranty their products. Senator Andrews (R-ND) felt service personnel should be treated like farmers and get warranties with their tractors.¹² His 1983 bill required manufacturers to replace or reimburse the government for premature failures. Even though the Secretary of Defense was given limited waiver authority, DOD objected because of cost and reduced flexibility. Congressional will ultimately persisted, but it overlooked the fact that tanks and airplanes, unlike tractors, are often located overseas and far from contractor service facilities. Consequently, vendors incorporate this extra cost into their pricing and DOD pays more for warranties than can be recouped from parts failure. If Congress unilaterally changes procurement procedures, it should be willing to alter those procedures if complications develop. This has not happened in the warranty situation and the issue has been hotly debated since its passage.

Congressional scrutiny of procurement procedures will continue. External review is needed because DOD procedural controls have too often been found deficient. Additional benefit is gleaned when the mechanics of this very legalistic process are debated, understood, and examined by those who make

our laws - the Congress.

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CHAPTER V

SHARED RESPONSIBILITIES

A trusting relationship must exist between Congress and the defense acquisition community. Our system of checks and balances will always contain some amount of friction; but in no instance should either side promote mistrust, parochialism, or deception.

Through healthy bantering, DOD and Congress often reach mutually agreed upon courses of action. However, once Congress legislates an unpopular program, DOD must fully comply with the law. This did not occur when Congress changed how DOD tests developmental equipment. Spurred by alleged problems with recently fielded Bradley Fighting Vehicles and B-1 bombers, Congress legislated the creation of a DOD level operational test activity. DOD strongly objected, but when the law passed, Mr. James Ambrose aptly noted, "It's the kind of situation where if you tell Capitol Hill to mind its own business you're regarded as mutinous...as someone from the military intruding on the political side. But the fact is, we don't know how to carry out realistic test without having a war."¹ The law required DOD to establish an Operational Testing Office by November 1, 1983, but it successfully delayed implementation and then failed to request funding support.² In effect, the office would exist, but without any operational funds. DOD called it an oversight, but the bill's sponsors were furious. Regrettably, a

congressionally directed action languished so long that one author labeled it "contempt for the law" and "the Pentagon's most arrogant reaction to the will of Congress."³ These unnecessary confrontations decrease public confidence and add to the procurer's already burdensome task.

Incorrect or inconsistent DOD testimony impairs congressional trust. Representative Spratt (D-SC) responded to incorrect B-1 cost testimony by publicly stating that "What we (Congress) want is full and open disclosure."⁴ Anthony Battista, the HASC's chief weapons system staffer, blatantly told the same Air Force representative to go back to the Pentagon and "try to get some truth out of that building."⁵ Unless Congress and DOD forthright and factual with each other, valuable resources will be needlessly wasted. On numerous occasions between 1979 and 1984, the Army staunchly defended the Sergeant York Air Defense System's firing capabilities.⁶ Yet, shortly thereafter DOD cancelled the program because it could counter the enemy threat. DOD must tell Congress as early as possible if a system will not achieve minimum performance requirements.

Congress can help the relationship by not using DOD acquisition funds to solve other national problems. Realistically, DOD's hugeness and public horror stories about poor management makes its multibillion dollar budget very vulnerable. Defense funds, however, are also shrinking and are vitally needed to sustain our armed forces. National level interest in our trade imbalance has made off shore procurement

extremely contentious. Congress feels while we procure from such countries as Japan, they use subterfuge to avoid procuring from us. Congress conveniently forgets that deployed forces save money by leasing or procuring host nation equipment and that low bidder selection may result in off shore awards. As a result, the Army's purchase of 3,000 Mitsubishi trucks led to congressional clamor for tougher "Buy American" protection.⁷ Analysis indicates that both sides have valid, but conflicting, concerns. Congress is appropriately protective of the national economy and DOD is worried about fragile allied relationships. Even though Deputy Secretary of Defense Taft stated, "You're not going to solve the international trade problem by looking at the defense budget,"⁸ both sides need to seek "middle ground" solutions that are in the best interest of the nation. Better communication and more compromise will help achieve this goal.

Congress must focus on long term programs rather than resolving short term problems. Senator Nunn noted, "Constitution envisioned Congress as the nation's board of directors...Instead we are preoccupied with trivia. Last year we changed the number of smoke grenade launchers and muzzle boresights...This is ridiculous."⁹ Micromanagement could be reduced if DOD did a better job of executing its procurement programs.

Congress has missed several opportunities to act "corporately by not fully supporting DOD efforts to use multi-year and economic quantity procurements. In 1982, DOD requested multiyear status for 34 weapon systems so that

contractors could plan ahead, program labor and materials, and hopefully, achieve efficient production. Congress approved only seven of the fourteen candidates. It appears that congressional inaction led to lost savings, but again there are two sides to the story. The Congressional Budget Office (CBO) feels DOD unnecessarily seeks multiyear contracts because it uses excessively low production rates that suboptimize contractor capabilities as a result, DOD continues to seek multiyear contract while CBO maintains that "multiyear contracting and milestone budgeting...cannot undo the basic inefficiency imposed...by an incommunicably low rate of annual production."¹⁰ Congress, however, has also wavered on economic buy rates. For example, congressional balancing virtually negated the benefits from the 18 systems approved for economical buys in 1983 and 1984.¹¹ CBO again played "devil's advocate" contending that economical buys are only a partial solution because DOD buys too many major systems concurrently.

The relative benefits of multiyear and economic rate buying have been inconclusively debated since the concepts were first introduced. DOD must do a better job of planning long term production, but the fact that long term buying results in lost leverage for two year congressmen is a political fact of life. As a result, DOD procurers must be ready to debate the merits of stabilized procurement whenever required.

The challenges of military acquisition must be shared and resolved by both DOD and Congress. Jointly developed solutions are in the best interest of our national defense.

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CHAPTER VI

CONCLUSIONS

It can be concluded that congressional procurement oversight is an intricately complex, dynamic, and political process.

American taxpayers deserve purposeful and prudent procurement that occurs when Congress and defense procurers dedicate their best effort to improving acquisition management. Specific conclusions are as follows:

a. The structure, forces, and factions of Congress that influence defense acquisition have undergone and will continue to undergo substantial change.

b. The absence of dominating chairmen and more influential liberal members have reduced the pro-defense orientation of the defense committees. Consequently, closer voting margins can be expected on key procurement issues that were once considered uncontentious.

c. Procurement legislation is often slowed down and changed by the redundant subcommittee review process. Congress is often frustrated by this system but has exerted little corrective effort. Consequently, procurement managers provide repetitious data to the numerous subcommittees that influence military procurement.

d. The growing corps of professional staffers allow congressmen to probe deeply into procurement matters. Staffers perform critical roles when they judge the merits of proposed buys, require committee hearings, and increase the depth of ongoing sessions.

e. Pork barreling is a real and pervasive fact of political life. It will not change because voters reward legislators who acquire or retain defense business. Even though pork barrel antics often cause increased costs and other problems, it can be very constructive when it corrects DOD shortsightedness or rises above DOD bickering to add critically needed weaponry to our arsenals.

f. Mutual trust and cooperation will improve the procurement system. Both sides must avoid mistrust, parochialism, and deception. If both sides cooperate and are forthright with each other, unilateral and ill conceived

acquisition reforms will not result.

g. Congress must avoid using military procurement funds to solve other national level social and economic problems.

h. The seemingly perpetual debate about the relative merits of multiyear and economic quantity contracting requires quick resolution.

CHAPTER VII

RECOMMENDATIONS

The recommendations listed below are offered as ways by which Congress and DOD can give purposeful direction to the defense acquisition system.

a. Military acquisition professionals must stay abreast of the changing ways by which Congress oversees procurement.

b. Procurement managers must be prepared to dedicate more time and effort to obtain favorable defense committee voting margins for procurement issues.

c. The time has come to replace the defense committees of both houses with a single, overarching "Defense" Committee. Congress can then concentrate on the important procurement issues and then quickly implement their decisions.

d. DOD procurers must develop a rapport with congressional staffers and capitalize on their influence. Congress should "cap" the size of its staffers corps to avoid building a bureaucracy as complex as the one they are trying to control.

e. DOD must realize that, like it or not, pork barrel patronage will continue. Members of Congress must philosophically reflect on patronage voting and reassess their position to ensure that they are representing the best interest of the entire nation.

f. DOD must ensure that acquisition managers are informed, frank, and factual when interacting with Congress. Congress should be advised when major development programs go astray and will not meet minimum performance requirements. Congress, in turn, should concentrate on long term program issues rather than trying to resolve short term programs.

g. DOD must be able to defend its multibillion dollar budget or risk losing those funds to other national programs. Congress must not overlook the fact that our defense forces need to be properly funded to sustain morale and readiness.

h. DOD and Congress must develop joint solutions to procurement problems to include determining the real benefits of such potential remedies as multiyear and economic lot purchases. The military must avoid seeking multiyear status for short term, high rate production programs and Congress must objectively consider these programs even if it means a loss of

short term political leverage.

DOD and Congress must continue to improve the integrity, responsiveness, and efficiency of the defense acquisition system. Close legislative oversight and public scrutiny are certainly better for the procurement system than congressional indifference and public apathy. Congressional overwatch will become more difficult as DOD competes with other important national level programs for diminishing fiscal resources. If legislators and military buyers continue to avoid parochialism, cooperate with each other, and set realistic program goals, there is no doubt that the worldwide equipment needs of our soldiers, sailors, and airmen will be properly satisfied.

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